

REMARKS

Applicant has studied the Office Action dated June 29, 2007. Claims 32-56 are pending. Claims 32, 40, and 47 are independent claims.

It is submitted that the application is in condition for allowance. Reconsideration and reexamination are respectfully requested.

Amendments to the Claims

Claim 40 has been amended to address a claim objection based on an informality. Claim 47 has been amended to correct a grammatical error. It is respectfully submitted that the amendments have support in the application as originally filed and are not related to patentability.

Objections to Claims

The Examiner objected to claim 40 due to an informality. Specifically, the Examiner asserted that the phrase "a reporting period" in line 8 should be replaced with "the reporting period."

With this paper, claim 40 has been amended as suggested by the Examiner. It is respectfully submitted that the ground for objection has been overcome and it is respectfully requested that the Examiner withdraw the objection.

§ 103 Rejections

Claims 32-56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shin (U.S. 6,640,105) in view of Sihlbom (U.S. 6,442,220). This rejection is respectfully traversed.

It is respectfully noted that the Federal Circuit has provided that an Examiner must establish a case of prima facie obviousness. Otherwise the rejection is incorrect and must be overturned. As the court recently stated in In re Rijkaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993):

"In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. Only if that burden is met, does the

burden of coming forward with evidence or argument shift to the applicant. 'A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.' If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned." (citations omitted.)

It is respectfully noted that Shin qualifies as a 35 U.S.C. § 103 prior art reference only under 35 U.S.C. § 102(e). It is further respectfully noted that the inventor of the Shin reference and the inventors of the present application are different and, therefore, the Shin reference is "by another" as defined under 35 U.S.C. § 102. Moreover, it is respectfully noted that both the Shin reference and the present application are both subject to assignment to LG Electronics and are, therefore, "owned by the same person" as defined under 35 U.S.C. § 102.

Therefore, it is respectfully asserted that Shin is precluded as a 35 U.S.C. § 103 reference against the present application pursuant to 35 U.S.C. § 103(c). It is respectfully requested that the rejection be withdrawn and the application be passed to issue.

CONCLUSION

In view of the above remarks, Applicant submits that claims 32-56 of the present application are in condition for allowance. Reexamination and reconsideration of the application, as originally filed, are requested.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

LEE, HONG, DEGERMAN, KANG & SCHMADEKA

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By: /Richard C. Salfelder/
Richard C. Salfelder, Esq.
Registration No. 51,127
Attorney for Applicant(s)

Customer No. 035884